

# Order

Michigan Supreme Court  
Lansing, Michigan

October 1, 2010

Marilyn Kelly,  
Chief Justice

140989

Michael F. Cavanagh  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway  
Alton Thomas Davis,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 140989  
COA: 292712  
Mecosta CC: 08-006293-FH

MICHAEL JAMES CARPENTER,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the March 16, 2010 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Mecosta Circuit Court to allow the defendant to withdraw his no contest plea because not only was there no evidence presented that the defendant was an originator of child sexually abusive material, but the prosecutor admitted that the defendant was not an originator of child sexually abusive material. Accordingly, the defendant's conviction under MCL 750.145c(2) cannot be sustained. See *People v Hill*, 486 Mich 658 (2010).

CORRIGAN, J. (*concurring*).

I concur in the order permitting defendant to withdraw his plea because this course of action is consistent with the majority opinion in *People v Hill*, 487 Mich 658 (2010). I write separately only to reiterate my disagreement with that majority opinion—which I conclude incorrectly interpreted MCL 750.145c(2)—as expressed by Justice YOUNG's dissenting opinion in *Hill*, which I joined.

YOUNG, J. (*concurring*).

Although I recognize that this Court's decision in *People v Hill*, 487 Mich 658 (2010), controls the interpretation of MCL 750.145(c), I continue to adhere to the position stated in my dissenting opinion in that case that, like defendant here, a person who makes copies of child pornography thereby "produces" or "makes" child sexually abusive material sufficient to sustain a conviction under MCL 750.145(c)(2).



s0928

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 1, 2010

*Corbin R. Davis*

Clerk